

**U.S. District Court [LIVE]  
Eastern District of TEXAS (Sherman)  
CIVIL DOCKET FOR CASE #: 4:15-cv-00821-ALM-CAN**

Oxysure Therapeutics, Inc. v. Gemini Master Fund, Ltd. et al  
Assigned to: Judge Amos L. Mazzant, III  
Referred to: Magistrate Judge Christine A. Nowak  
Cause: 28:1441 Petition for Removal– Contract Dispute

Date Filed: 12/02/2015  
Jury Demand: Plaintiff  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**Oxysure Therapeutics, Inc.**  
*a/k/a Oxysure Systems, Inc.*

represented by **Mazin Ahmad Sbaiti**  
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V.

**Defendant**

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**Defendant****Gemini Strategies, LLC**

represented by **Perrie M Weiner**  
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**Defendant****Black Mountain Equities, Inc.**

represented by **Perrie M Weiner**  
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**ATTORNEY TO BE NOTICED**

**Robert D Weber**  
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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
12/02/2015	<u>I 1</u>	COMPLAINT against All Defendants ( Filing fee \$ 400 receipt number 0540-5509839.), filed by Oxysure Therapeutics, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet)(Sbaiti, Mazin) (Entered: 12/02/2015)
12/02/2015	<u>I</u>	Case ASSIGNED to Judge Amos L. Mazzant, III and REFERRED to Magistrate Judge Christine A. Nowak. (baf, ) (Entered: 12/02/2015)
12/02/2015	<u>I</u>	In accordance with the provisions of 28 USC Section 636(c), you are hereby notified that a U.S. Magistrate Judge of this district court is available to conduct any or all proceedings in this case including a jury or non-jury trial and to order the entry of a final judgment. The form <u>Consent to Proceed Before Magistrate Judge</u> is available on our website. All signed consent forms, excluding pro se parties, should be filed electronically using the event <i>Notice Regarding Consent to Proceed Before Magistrate Judge</i> . (baf, ) (Entered: 12/02/2015)
12/04/2015	<u>I 2</u>	SUMMONS Issued as to Gemini Master Fund, Ltd.. (baf, ) (Entered: 12/04/2015)
12/04/2015	<u>I 3</u>	SUMMONS Issued as to Gemini Strategies, LLC. (baf, ) (Entered: 12/04/2015)
12/04/2015	<u>I 4</u>	SUMMONS Issued as to Black Mountain Equities, Inc.. (baf, ) (Entered: 12/04/2015)
12/29/2015	<u>I 5</u>	MOTION to Change Venue Pursuant to 28 U.S.C. § 1404(A), or Alternatively, to Dismiss the Complaint Pursuant to FRCP 12(B)(3), and Brief in Support by Gemini Master Fund, Ltd.. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Text of Proposed Order)(Burriss, Eliot) (Entered: 12/29/2015)
01/05/2016	<u>I 6</u>	***PLEASE DISREGARD – FILED IN ERROR BY ATTORNEY***

NOTICE by Oxysure Therapeutics, Inc. re 1 Complaint *Return of Service on Black Mountain Equities* (Sbaiti, Mazin) Modified on 1/5/2016 (baf, ). (Entered: 01/05/2016)

01/05/2016	<u>7</u>	<p><b>***PLEASE DISREGARD – FILED IN ERROR BY ATTORNEY***</b></p> <p>NOTICE by Oxysure Therapeutics, Inc. re <u>1</u> Complaint <i>Return of Service on Gemini Master Fund, Ltd.</i> (Sbaiti, Mazin) Modified on 1/5/2016 (baf, ). (Entered: 01/05/2016)</p>
01/05/2016	<u>8</u>	<p><b>***PLEASE DISREGARD – FILED IN ERROR BY ATTORNEY***</b></p> <p>NOTICE by Oxysure Therapeutics, Inc. re <u>1</u> Complaint <i>Return of Service on Gemini Strategies, LLC</i> (Sbaiti, Mazin) Modified on 1/5/2016 (baf, ). (Entered: 01/05/2016)</p>
01/05/2016	<u>1</u>	<p><b>***FILED IN ERROR BY ATTORNEY. Document # 6, NOTICE. PLEASE IGNORE.***</b></p> <p>(baf, ) (Entered: 01/05/2016)</p>
01/05/2016	<u>1</u>	<p><b>***FILED IN ERROR BY ATTORNEY. Document # 7, NOTICE. PLEASE IGNORE.***</b></p> <p>(baf, ) (Entered: 01/05/2016)</p>
01/05/2016	<u>1</u>	<p><b>***FILED IN ERROR. BY ATTORNEY Document # 8, NOTICE. PLEASE IGNORE.***</b></p> <p>(baf, ) (Entered: 01/05/2016)</p>
01/05/2016	<u>9</u>	NOTICE of Attorney Appearance – Pro Hac Vice by Perrie M Weiner on behalf of All Defendants. Filing fee \$ 100, receipt number 0540–5550345. (Weiner, Perrie) (Entered: 01/05/2016)
01/05/2016	<u>10</u>	NOTICE of Attorney Appearance – Pro Hac Vice by Robert D Weber on behalf of All Defendants. Filing fee \$ 100, receipt number 0540–5550380. (Weber, Robert) (Entered: 01/05/2016)
01/12/2016	<u>11</u>	RESPONSE in Opposition re <u>5</u> MOTION to Change Venue <i>Pursuant to 28 U.S.C.. § 1404(A), or Alternatively, to Dismiss the Complaint Pursuant to FRCP 12(B)(3), and Brief in Support filed by Oxysure Therapeutics, Inc.</i> (Sbaiti, Mazin) (Entered: 01/12/2016)
01/22/2016	<u>12</u>	<p>REPLY to Response to Motion re <u>5</u> MOTION to Change Venue <i>Pursuant to 28 U.S.C.. § 1404(A), or Alternatively, to Dismiss the Complaint Pursuant to FRCP 12(B)(3), and Brief in Support filed by Black Mountain Equities, Inc., Gemini Master Fund, Ltd., Gemini Strategies, LLC.</i></p> <p>(Attachments:  # <u>1</u> Supplemental Declaration of Steven Winters In Support,  # <u>2</u> Supplemental Declaration of Adam Baker In Support,  # <u>3</u> Declaration of Robert Weber In Support)(Weber, Robert) (Entered: 01/22/2016)</p>
01/29/2016	<u>13</u>	ORDER GOVERNING PROCEEDINGS – This Order shall govern proceedings in this case. Rule 26 Meeting Joint Report due by 3/4/2016. Rule 16 Management Conference set for 3/21/2016 at 11:30 AM in Ctrm A01 (Sherman – Annex) before Magistrate Judge Christine A. Nowak. Signed by Magistrate Judge Christine A. Nowak on 1/29/2016. (baf, ) (Entered: 01/29/2016)
03/16/2016	<u>14</u>	ORDER – Currently this case is set for a Rule 16 management conference on March 21, 2016, at 11:30 a.m. in Sherman, Texas [Dkt. 13]. On December 29, 2015, Defendants filed a Motion to Change Venue arguing that this matter should be transferred to the Southern District of New York pursuant to a forum selection clause in the underlying disputed common stock purchase warrants [Dkt. 5]. The Rule 16 management conference is canceled until such time as the Court rules on Defendants Motion to Change Venue; such conference will be rescheduled, if necessary, following the Courts ruling. Accordingly, It is therefore ORDERED that the Rule 16 management conference set for Monday, March 21, 2016, at 11:30 a.m. is hereby CANCELED. Signed by Magistrate Judge Christine A. Nowak on 3/16/2016. (baf, ) (Entered: 03/16/2016)

04/29/2016	<u>15</u>	NOTICE of Change of Address by Mazin Ahmad Sbaiti (Sbaiti, Mazin) (Entered: 04/29/2016)
07/08/2016	<u>16</u>	REPORT AND RECOMMENDATIONS granting in part and denying in part <u>5</u> MOTION to Change Venue <i>Pursuant to 28 U.S.C.. § 1404(A), or Alternatively, to Dismiss the Complaint Pursuant to FRCP 12(B)(3), and Brief in Support</i> filed by Gemini Master Fund, Ltd. Signed by Magistrate Judge Christine A. Nowak on 07/08/2016. (kkc, ) (Entered: 07/08/2016)
07/28/2016	<u>17</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS of UNITED STATES MAGISTRATE JUDGE <u>5</u> Motion to Change Venue. It is further ORDERED that Plaintiffs claims for breach of duty of good faith, declaratory relief, and reformation of the Purchase Agreement be transferred to the Southern District of New York and consolidated with the suit pending in that jurisdiction (1:15-CV-9546).It is further ORDERED that Plaintiffs claim for equitable rescission of the Purchase Agreement pursuant to which the Warrants and Notes are issued remains before this Court. Signed by Judge Amos L. Mazzant, III on 7/28/2016. (pad, ) (Entered: 07/28/2016)